IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3266 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

GULABBHAI CHIMANLAL SHAH

Versus

5ISTRICT REGISTRAR

Appearance:

1. Special Civil Application No. 3266 of 2000

MR KA PUJ for Petitioner No. 1-4

Ms.Nandini Joshi, Asst.GP for Respondent No. 1-4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 03/07/2001

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, certain ex-Directors, members and shareholders of Shri Vardhaman Coop.Bank Ltd, Bhavnagar have challenged the order dated 31.3.1999 passed by District Registrar, Cooperative Societies, Bhavnagar

appointing custodians for Shri Vardhaman Coop.Bank Ltd, (hereinafter referred to as "the Bank") under section 74-D of Gujarat Coop.Societies Act, 1961 (hereinafter referred to as "the Act"). The aforesaid order came to be passed in view of the resignation given by 9 out of 15 Directors, some time in March 1999. It was, therefore, mentioned in the impugned order that the appointment of custodian would be valid for a period of one year or till the holding of next election, whichever would be earlier. Thereafter, the appointment of custodian came to be extended till 31.3.2001.

2. Affidavit-in-reply has been filed by the District Registrar, Cooperative Societies, Bhavnagar pointing out that by subsequent order dated 22.3.2000 the District Registrar is appointed as custodian for six months with further direction to hold the election within six months of the Board of Directors and thereafter to hand over the administration to the elected Board. It is submitted that the order dated 31.3.1999 has become infructuous. It is also further stated in the reply affidavit that inquiry under section 93 has been initiated against the ex-Directors of the Bank by order dated 7.12.1999. It is also stated that during adminiastration by the custodian the economic position of the Bank has improved which is reflected in the balance sheet of the Bank and that in the Financial Year commencing from 1.4.1999 and ending on 31.3.2000 the Bank has made profit of Rs.72 lacs.

3. At the hearing of this petition, Mr.Puj, learned advocate appearing for the petitioners has submitted that the respondents are required to be directed to hold election to the Board of Directors of the Bank as no elections are held for the last two years.

4. In reply, Ms.Nandini Joshi, Ld.AGP for respondent No.1 submits that inquiry under section 93 is still pending and the same is not concluded on account of lack of cooperation from the ex-Directors of the Bank (this contention is denied by Mr.Puj, learned advocate for the petitioners on the basis of averments made in the rejoinder affidavit). The Ld.AGP further states that maximum period for which the custodian can be appointed by the District Registrar came to an end and therefore the matter is referred to Reserve Bank of India under section 115 A of the Cooperative Societies Act. It is also submitted that holding the elections at this juncture may mean that ex-Directors against whom the inquiry instituted under Section 93 is pending may come to power. When the matter is now referred to Reserve Bank of India under subsection (3) of Section 115A of the

Act, the petition may be disposed of as nothing further is required to be done until the Reserve Bank of India issues necessary instructions in this behalf. It is further submitted that no direction may be issued for holding elections at this stage as enquiry into serious allegations about financial irregularities committed by the ex-Directors of the Bank is pending.

5. Since the Court finds considerable substance in the submissions made by the learned AGP, this petition is disposed of with a direction to respondent No.1 to seek the directions from the Reserve Bank of India under relevant provisions of law, and to take appropriate decision as expeditiously as possible (preferably within six months from the date of receipt of writ of this judgment or a certified copy of this judgment, whichever is earlier) on the question whether the administration of the Bank is properly toned up and whether the time is ripe for holding elections to the Board of Directors of Vardhaman Cooperative Bank Ltd. after completing the inquiry into the irregularities committed by the ex-directors of the Bank. This direction is given on the basis that the ex-Directors of the Bank shall extend full cooperation with the authorities in the pending inquiry.

6. The petition is accordingly disposed of in the aforesaid terms with liberty to the petitioners to file a fresh petition after expiry of the aforesaid period provided the petitioners cooperate with the authority for expeditious completion of the inquiry pending against the ex-Directors.

Rule is discharged. No order as to costs.

3.7.01 (M.S.SHAH,J)
mty